

The Salisbury Planning Board held its regular meeting Tuesday, September 26, 2006, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

PRESENT: Dr. Mark Beymer, Nathan Chambers, Robert Cockerl, Tommy Hairston, Lou Manning, Brian Miller, Sandy Reitz, Valarie Stewart, Albert Stout, Dr. Kelly Vance, Price Wagoner, and Diane Young

STAFF: Dan Mikkelson, Preston Mitchell, Diana Moghrabi, David Phillips, Lynn Raker

Chairman Brian Miller called the meeting to order and Mark Beymer offered the invocation. The minutes of the September 12, 2006, meeting were approved as published.

NEW BUSINESS

A. Zoning Map Amendment

- Explanation of procedure
- Staff Presentation
- Courtesy Hearing
- Board discussion
- Statement of Consistency and Motion

1. Z-09-06 John Mauney, Fowler Agency, Inc., Petitioner

LOCATION: Unnumbered Henderson Grove Church Road

Parcel: TM&P 407-115

Acres: Approximately 50.96 acres, on 1 parcel

Chairman Miller opened the courtesy hearing. Senior Planner Preston Mitchell made a staff presentation.

This property has been annexed into the City of Salisbury and City zoning must be established on the property. Planning Board heard this case August 8, 2006, when they voted 7-1 to deny M-2 zoning. The petitioner has since amended the request to establish the M-2 (Heavy Industrial) City zoning district on the rear 42.65 acres of TM&P 407-115 and establish the M-1 (Light Industrial) City zoning district on the front 7.731 acres of TM&P 407-115 for a total parcel acreage of 50.381 acres (which excludes right-of-way) as part of a voluntary annexation, which is effective September 30, 2006.

It is important to note that there is no statutorily defined distance for public notification. The state statute requires notification to the subject property owner(s) and owner(s) of all abutting parcels. The City has reached beyond that state minimum and requires, by Code, a notification distance of 100 feet from all edges of the subject property. Pursuant to the City's notification requirements, this rezoning petition generates a notification area of 146 acres. Within this 146-acre area, three (3) residential structures were located.

Policy 7.1 of the Strategic Growth Plan calls for *protection of viable neighborhoods to ensure their continued existence as a major housing source*. Staff does not believe that the notification area, or the overall development pattern, shows evidence of continuation as a major housing source. However, that is not to say that Policies 4.2 and 7.2 are any less important. Staff also believes that there is no clearly predominant zoning pattern.

Mr. Mitchell reviewed what is allowable in the M-2 and M-1 city zoning districts. Mr. Mitchell also covered the County 85-ED-3 zoning district. Staff supports the amended request to split-zone the subject site between M-2 (Heavy Industrial) and M-1 (Light Industrial) districts. The light industrial along Henderson Grove Church Road ensures a compatible zoning pattern along the road frontage while allowing for the more intensive industrial uses within the rear of the site.

Staff recommendation

Staff believes that the petition is consistent with City's Growth and Comprehensive Plans and recommends approval of the amended request to establish a split City zoning of M-1 and M-2 as proposed.

Those speaking in opposition:

Vic Shue, 710 Peach Orchard Road, presented calculations stated by an asphalt plant in Concord. The plant at the time rated at 350 tons per hour. A new Salisbury plant could use almost the exact same equipment as the Concord plant. There could be up to 44 trucks per hour coming to and from the plant. A daily total could amount to 343 truck trips that could increase to 519 truck trips if you factor in the potential of 176 trucks to provide the needed aggregate and liquid that would be required for production. The Department of Air Quality (DAQ) restrictions for an APAC asphalt plant in Concord permits them 1,488,817 tons for a consecutive 12-month period. A representative of the plant was quoted saying, "There are many trucks moving around the plant; be mindful of them because they may not be mindful of you."

The previous downzoning of Jake Alexander Boulevard APAC property and removal of hotmix asphalt plants from M-2 zoning was based on cancer and suicide fears of Milford Hills residents and not facts from DAQ. Mr. Shue quoted from the City Council minutes of March 20, 2001, which are available online www.salisburync.gov.

December 13, 2005, the City of Salisbury petitioned to add asphalt plants back into the M-2 uses that the City of Salisbury had so carefully removed from the M-2 zone. January 6, 2006, the 50-acre site in question was cut from the original 73-acre site and the deed recorded.

Nancy Shue, 710 Peach Orchard Road, is opposed to any M-2 rezoning of Henderson Grove Church Road property. The property in question has been readied since December 13, 2005, for the placement of an asphalt plant. She believes this to be an effort by the city, land speculators and APAC seeking a symbiotic relationship and to shift an undesirable industry to the edge of the county. The roads are not sufficient to take on the

loads and truck traffic the plant would produce. There is no police monitoring traffic in the area. She has concerns for pedestrians (elderly and small children) along the roads getting their daily mail. She stated that they had a petition of over 345 names. Health concerns and concerns for odors arise from an asphalt plant.

"If M-2 was not the proper zoning for Jake Alexander Boulevard neighborhoods, why is it suddenly proper zoning for us? Who speaks for and protects us in the City's process of carrying out its Vision 2020 Plan?" *Do no harm to the neighborhood* is a statement in the Vision 2020 Plan. Please vote "no" for M-2 zoning.

Ed Lockhart, 745 Peach Orchard Road, Mr. and Mrs. Shue emphasized the truck traffic that could initiate from the site. The roads were constructed in the late 1940s with a soil base. These roads will not withstand the pounding of the aforementioned truck traffic. The reaction time of the trucks stopping is not safe. He is totally against an asphalt plant.

Jesse Watson, 835 Peach Orchard Road, said that the Planning Board had already voted 7-1 to deny the rezoning based on the information they received. Nothing has changed since that vote. This move to put M-1 zoning in the front acreage is nothing more than a political, legal move to force the Planning Board to reopen the subject; if it were not so serious, it would almost be comical. Will Planning Board be forced to vote until the petitioner gets the answer they desire? Terminology is being used interchangeably to suit individual agendas.

They are not against industry; community-friendly industry does exist in the area. M-2 zoning is not compatible with any other zoning in this area. The petition he has submitted with 345 names should be all they need to deny the rezoning. It is the number one job of government to look after its citizens.

Henry Saine, 1351 Henderson Grove Church Road, lives within 300 feet of the property line where the asphalt plant would be located. He built a new home here three years ago. The property runs downhill to the creek and has poor soil (it does not perk) conditions. Trees take care of the water, but if the trees are removed there will be a lot of runoff. He is opposed to zoning Heavy Industrial and agreed with statements his neighbors made. The odor will be there whether there is a buffer or not.

Don Manius, 3317 Old Concord Road, is very concerned about the affect this will have on the new school. I-85 air and noise pollution is problem enough for this already overcrowded school.

Nancy Earl Safrit, 1125 Henderson Grove Church Road, lives about two or three city blocks from the proposed asphalt plant. She said before that this is a community. She included the churchgoers along the road who add a pedestrian hazard for any future heavy truck traffic.

Those speaking in favor of the rezoning

Jay Dees, attorney for Ketner and Dees, 121 E. Kerr Street, represents the property owners. Staff did a great job framing the issues and giving Planning Board information. This is not a rezoning, but it is an initial zoning based on the recent annexation. Six months ago this property could have entertained a concept for a paper manufacturing facility, a rubber and plastics manufacturing facility, industrial machinery and equipment as is allowed under county zoning at present. This is not an alien concept for this piece of property.

This property is ideally located based on the I-85/Hwy 29 water/sewer project. Everyone expects this corridor will be developed as commercial manufacturing and industrial. The County identified that years ago and planned accordingly. This particular property is ideally situated; it is a large contiguous tract of land—55 acres. It is old growth. It gives the ability to add by subtracting. Salisbury gets the ability to create a situation where industrial uses can coexist with residential uses with buffers of old growth or even extended buffers. This property located near I-85, Hwy 29 South, and Jake Alexander Boulevard is always going to be attractive for a manufacturing or an industrial use based on its location.

This property gives Planning Board and City Council the ability to minimize or even eliminate the byproducts of manufacturing industrial uses just because of the topography and the existing condition of the land.

He felt a need to defend APAC; they were only sited for an odor issue twice. They have not been sited for any problems in four or five years. City Council received an objective presentation that confirmed health risks do not exist. Property values in Milford Hills are not dropping—they are going up. Since that downzoning Salisbury has learned that industry and residential uses can coexist.

Mr. Miller closed the courtesy hearing. Twenty-nine people opposed to the rezoning stood to be counted and five in favor were counted.

Board Discussion

Brian Miller asked the Planning Board to consider all uses in the M-1 and M-2 when making their decision.

Sandy Reitz asked who had responsibility for the roads in that area. **Wendy Brindle**, Traffic Engineer for the City of Salisbury, spoke to the Board and stated that these roads are maintained by the North Carolina Department of Transportation (NC DOT); Chris Corriher is our DOT maintenance engineer. She has not been in contact with him to see what his thoughts are on increased traffic on the road and the affect it will have on maintenance at this point. There is no current specific use or site plan for them to consider.

Diane Young asked when the County had zoned this parcel to 85-ED3. Did the surrounding property owners speak out in opposition to that zoning? She believes that the nature of this area has changed with the placement of Elizabeth Koontz Elementary School practically right across on I-85. The area is now geared more toward residential. M-1 still makes great use of the corridor and the infrastructure; she would be comfortable with that, but would not be in favor of M-2.

Albert Stout stated that, "If it is not good enough for Jake Alexander Boulevard, it is not good enough for Henderson Grove Church Road."

Tommy Hairston did not think the buffer was enough for any odor or dust created by industry. He would like to hear from NC DOT about traffic.

Wendy Brindle had looked at this in terms of a general rezoning so she had not applied a use to this property. She was in contact about the NC DOT Bridge Maintenance Unit about the bridges on Henderson Grove Church Road, Peach Orchard Road, and Rowan Mill Road. None of these bridges is posted with a weight limit at this time. They are inspected every two years, so if there was a deficiency, it would be noted. The Institute of Transportation Engineers has a manual called *Trip Generation Manual*, and in general terms it predicts traffic based on certain uses, employees, acreage, square footage and so forth. Looking at general light and general heavy industrial uses there would not be a significant change in traffic based on ITE for either the M-1 or the M-2; in fact, the ITE actually predicts more traffic for light industrial than heavy industrial because heavy industrial uses do not have as many employees. The manual does not address truck traffic; that is just vehicles in general.

Ed Lockhart (public) responded to Wendy Brindle by saying that Rowan Mill Road is concrete and the bridge on Peach Orchard Road is concrete the Henderson Grove Church Road Bridge is steel beamed with wood and an asphalt surface.

Dr. Mark Beymer stated last time that he was not opposed to locating an asphalt plant in this corridor, but he had specific reservations about this specific piece of property. He has concerns about drainage and he does not feel that has been addressed. He cannot make a decision apart from that. He is not convinced he could support this at this time.

Lou Manning believes the location of the school will encourage more residential growth. He said the school buses traveling those roads could create a hazard in regard to the probable heavy truck traffic.

Robert Cockerl would not support the M-2 zoning; it is not compatible with the neighborhood.

Sandy Reitz our process does not require that NC DOT provide traffic information at this time. This is a general rezoning and not a site plan. The studies that were done have put her mind at ease about the health issues raised in Milford Hills and Meadowbrook. She is

concerned about the drainage, too. She does believe that this is appropriate zoning for the area if some of those other questions are answered.

Brian Miller commented that this is an industrial corridor due to the I-85 widening and some of the zoning that exists; although, it may have once been a residential/farming community. He does have some concerns about traffic that will have to be resolved once they have a specific use. He stated that he had never visited a hotmix asphalt plant and he has never read the full medical report for the plant on Alexander Boulevard. He understands that the report concluded that APAC was not in violation. The odors that were caused there were not caused by the APAC plant.

He would not want an asphalt plant if he lived where Mr. Saine lived, but still he has the job as a member of the Planning Board to make the best decision for the entire city. The SUP process gives him some comfort. If an asphalt plant came to this location there are measures to protect the public if it becomes in violation of standards.

Mr. Miller stated that he was opposed to the school being built in that location; it was a mistake to locate a school in an industrial corridor. He suggested that the board send this case to committee. He does not feel he has enough information to make a decision. Regardless, with the annexation of the property, the City must decide the proper zoning.

Albert Stout felt that sending this to a committee could not change his opinion. Even with controls and measures, bad things happen. He believed that Planning Board could resolve this today. Mr. Manning did not know what they could accomplish by going to committee.

Mr. Mitchell said that this rezoning will be going to City Council October 3, 2006. August 8 the Planning Board made a recommendation to deny M-2 zoning. It was scheduled to be heard by City Council in September. The petitioner's representative requested that it be deferred to the October 3 City Council meeting. The city's attorney suggested the planning board hear the amended petition. He explained the timing and the process if it went to committee. The petitioner did not desire a special use district though staff offered that as an option.

Nathan Chambers did not hear much in favor. He did not believe going to committee would change anything.

Diane Young made a MOTION to deny the rezoning. "Regarding zoning map amendment Z-09-06, while we have heard staff report that this is consistent with the overall growth strategies of the adopted strategic growth plan and the comprehensive plan, we have also found that there are circumstances within this area such as schools, neighborhoods and residential areas that lead me to believe that they deviate to some degree from the strategic growth plan and the comprehensive plan. Therefore, I move to recommend denial of establishing the city zoning districts as proposed as part of associated voluntary annexation effective September 30, 2006."

Albert Stout seconded the motion. The motion passed 10-2 with Brian Miller and Sandy Reitz voting against and Dr. Mark Beymer, Nathan Chambers, Robert Cockerl, Tommy Hairston, Lou Manning, Valarie Stewart, Albert Stout, Dr. Kelly Vance, Price Wagoner, and Diane Young voting in favor of the motion.

Preston Mitchell stated that the rezoning will still move forward to City Council for a public hearing on October 3.

COMMITTEES

Committee 1 reviewing the proposed Sidewalk Prioritization Plan was canceled.

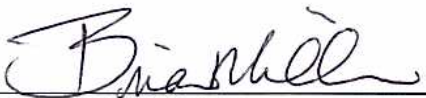
Committee 2 meeting was canceled and will be rescheduled at a later date.

OTHER


Mr. Miller felt the Planning Board had focused more on the end use than the general zoning for the zoning map amendment.

Valarie Stewart apologized for not asking staff to address the public comment that this was backroom politics. As a member of Planning Board, she is sure that is not the case. Planning Board operates legitimately for the community. Mr. Stout said we should agree to disagree without being disagreeable.

There being no further business to come before the Planning Board, the meeting was adjourned at 5:50 p.m.


Brian Miller, Chairman


Lou Manning, Vice Chairman


Secretary, Diana Moghrabi

